

JFK

PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wing K. Luk

Examiner: Bernstein, Allison

Serial No.: 10/735,061

Group: Art Unit 2824

Filed: December 11, 2003

Docket: YOR920030136US1 (8728-621)

For: **GATED DIODE MEMORY CELLS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated July 7, 2006, Applicant provisionally elects the claims of Species 1, claims (1-10).

CERTIFICATE OF MAILING 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence was deposited with the United States Postal Service as first class mail, postage paid in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Dated: 8/7/06


Frank V. DeRosa

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Applicant acknowledges that upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

In the Office Action, the Examiner contends that there are no generic claims. Applicant respectfully disagrees. Indeed, based on the Restriction requirement, the Examiner actually acknowledges at the very least that:

Claim 1 is generic independent claim for Species 1, 2, 3, 4 and 5; and that

Claim 34 is generic independent claim for Species 6, 7 and 8.

Moreover, since claims 47-51 depend directly or indirectly from independent claim 1, claim 1 is also a generic independent claim for Species 9 (claims 47-51).

Therefore, at the very least, if Claim 1 as allowed remains generic to each of non-elected Species 2, 3, 4, 5 and 9, the Examiner is respectfully requested to consider all claims of Species 2, 3, 4, 5 and 9 in the current application.

Furthermore, as set forth in MPEP 803, if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though the application contains claims to independent and distinct inventions. While the claimed subject matter of the different "species" identified by the Examiner may be patentably distinct, it is respectfully submitted that simultaneous examination will not present a serious burden. Here, the subject matter of the different "species" is similar at least to the extent that all claims in the different Species would undoubtedly have a common classification, limiting the Examiner's search to a single or a few classes/subclasses. As such, it is respectfully submitted

that there would be no serious burden on Examiner, to simultaneously prosecute all claims of Species 1-9, or at the very least, all claims of Species 1-5. Under such circumstances, it is respectfully requested that Examiner maintain all claims in the same application, or at least all claims for Species 1-5 which have a common independent claim 1.

Respectfully submitted,



Frank V. DeRosa

Reg. No. 43,584

Attorney for Applicants

F. CHAU & ASSOCIATES, LLC
130 Woodbury Road
Woodbury, New York 11797
Tel: (516) 692-8888
Fax: (516) 692-8889

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